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**OFFICE OF PETITIONS**

In re Patent No. 6,815,420	:	DECISION ON
Kreider, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: November 9, 2004	:	AND NOTICE OF INTENT
Application No. 10/054,967	:	TO ISSUE
Filed: January 25, 2002	:	CERTIFICATE OF
Attorney Docket No. PF115P4C1D1	:	CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed December 22, 2004. Patentees request that the patent term adjustment indicated on the patent be corrected from zero (0) days to one hundred forty-nine (149) days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **seventy-eight (78)** days.

On November 9, 2004, the above-identified application matured into U.S. Patent No. 6,815,420. The instant request for reconsideration filed December 22, 2004 was timely filed within two months of the date the patent issued. See § 1.705(d). The Patent issued with a Patent Term Adjustment of zero (0) days. Patentees states that the initial determination of patent term adjustment days should not have been reduced to 0 days for: (1) the submission of an Issue Fee Transmittal Letter, filed contemporaneously with the payment of the issue fee (applicant delay of 104 days); and (2) the submission of an amendment in response to a "Notice of Drawing Inconsistency with Specification (applicant delay of 71 days).

The adjustment of one hundred four (104) days for the filing of a "ISSUE FEE TRANSMITTAL LETTER" has been found to be incorrect. Accordingly, applicant delay with respect to this filing should have been ZERO (0) days.

However, the adjustment of seventy-one (71) days for filing an amendment after a Notice of Allowance has been found to be correct. Applicant argues that the paper was not an amendment due to an Official Gazette notice. However, review of the particular notice confirms that such papers are in fact an amendment; the Office is merely waiving the requirement of withdrawal from issue if the amendment is filed after payment of the issue fee.

In view thereof, the correct determination of PTA at the time of issuance is seventy-eight (78) days (149 days of PTO delay, reduced by 71 days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **seventy-eight (78)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

*Karin Ferriter  
for*

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Enc: draft certificate of correction